

The Honorable Benjamin H. Settle

**IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE WESTERN DISTRICT OF WASHINGTON**

NATHEN BARTON,

Plaintiff,

v.

SERVE ALL, HELP ALL, INC.; and JOHN
DOE 1-10 1-10, inclusive,

Defendants.

CASE NO. 3:21-cv-05338-BHS

***EX PARTE* MOTION TO ACCEPT
LATE FILING OF RESPONSE TO
MOTION TO STRIKE
AFFIRMATIVE DEFENSES**

Noted for: January 3, 2022

COMES NOW defendant SERVE ALL, HELP ALL INC, and move this Court to
accept its late response to the Motion to Strike Affirmative Defenses. This motion is based on
the declaration of counsel and the records and files herein.

Dated this 1st day of January, 2022

s/Donna Gibson

Donna Gibson WSBA 33583

Attorney for Defendant

SERVE ALL HELP ALL INC.

Law Office of Donna Beasley Gibson

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Mount Vernon, WA 98273

**EX PARTE MOTION TO ACCEPT LATE FILING OF
RESPONSE TO MOTION TO
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EX PARTE MOTION TO ACCEPT LATE FILING OF RESPONSE

FACTS

Plaintiff filed its Motion to Strike Affirmative Defenses December 16, 2021. *See* Dkt. 36. I also represent another defendant in a matter with Plaintiff BARTON, where he filed the same motion (a motion to strike affirmative defenses) as well as four other motions noted for the same day, 1/7/22.¹ Counsel also has opening briefs due on January 3, 2022 in other matters in this Court², and two matters in Whatcom County Superior Court were scheduled for trial confirmation (and were continued). *See* Declaration of Donna Gibson.

Counsel for Defendant is a solo practitioner and due to the COVID-19 pandemic, counsel's staff and counsel are currently working from home. *See* Declaration of Donna Gibson. Counsel was in a motor vehicle accident on June 26, 2021 and is suffering from two partial thickness rotator cuff tears which were recently diagnosed on December 17, 2021 after an MRI on December 16, 2021. Over use of her hands, arms and shoulder, doing things such as typing, increases the pain in her shoulder and causes headaches and vision issues. *See* Declaration of Donna Gibson.

¹See 3:21-cv-05610-JRC, *Barton v. Deflgauw*, et al. , Western District of Washington. Motion filed at Dkt. 59, 64, 66, 68, and 70).

² 2:21-cv-01228-MLP *Austin v. Comm'r of Social Security*, Western District of Washington.

1 Further, between the time this motion was filed and the response was due, was
2 Christmas Eve and Christmas Day, record breaking cold and snow and windstorms on Dec
3 24, 25, 26, 27 and again on December 30. Internet in Anacortes was intermittent during those
4 times.

5 The acceptance of the filing of the response one day late should note prejudice Plaintiff
6 in preparing his reply. *See* Declaration of Donna Gibson.

7
8 **RELIEF REQUESTED**

9 Defendant, through Counsel, respectfully requests that this Court accept the late filing
10 of the Response to Motion to Strike Affirmative Defenses.

11 Respectfully submitted this 1st day of January, 2022.

12
13 s/Donna Gibson

14 Donna Gibson WSBA 33583
15 Attorney for Defendant
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